

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

SADIK BECIRAJ,

Petitioner,

v.

ORDER

Civil File No. 06-3160 (MJD/JGL)

UNITED STATES DEPARTMENT
OF HOMELAND SECURITY,
IMMIGRATION AND CUSTOMS
ENFORCEMENT AGENCY

Respondent.

Phillip F. Fishman, Attorney at Law, Fishman, Binsfield & Bachmeier, P.A.,
Counsel for Plaintiff.

Lonnie F. Bryan, Assistant United States Attorney, Counsel for Respondent.

This matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Franklin L. Noel dated June 4, 2007. Petitioner Sadik Beciraj filed objections to the Report and Recommendation. The government filed a response to those objections.

Pursuant to statute, the Court has conducted a de novo review of the record. 28 U.S.C. § 636(b)(1); Local Rule 72.1(c). Based on that review, the Court adopts the Report and Recommendation dated June 4, 2007, with one exception. Petitioner

objects to the following statement in the Report and Recommendation: “Respondent selected Serbia as the alternate country for removal under Section 1231(b)(2), which allows for the Attorney General to remove Petitioner to the country where his birthplace is located, when the country selected by Petitioner will not accept him.” The record supports Petitioner’s objection. Petitioner did not “select” Serbia as an alternative country for removal. Rather, “ICE selected Serbia as the alternate country for removal pursuant to 8 U.S.C. 1231(b)(2)(D) and (E)(vii)” (Gov’t Resp. at 2.) This finding, however, does not disturb the soundness of Magistrate Judge Noel’s recommendation that Petitioner’s habeas corpus petition be denied.

To the extent Petitioner argues that the switch of deportation country from Bosnia to Serbia violates his due process rights, the Court refrains from exploring the issue, because the Court does not have jurisdiction over challenges to the order of removal for the reasons stated in the Report and Recommendation.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

1. The Magistrate Judge’s June 4, 2007, Report and Recommendation [Docket No. 16] is hereby **ADOPTED IN PART and MODIFIED IN PART** as explained above.

2. Petitioner's Petition for Writ of Habeas Corpus [Docket No. 1] is **DENIED.**

Dated: September 28, 2007

s/Michael J. Davis
Judge Michael J. Davis
United States District Court